

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

No. 4:23-CV-154

WILBERT B. RIGGIN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	NOTICE OF REMOVAL
ATF AGENCY, et al.,	)	
	)	
Defendants.	)	

Federal Defendant, ATF Agency (“Federal Defendant”), by and through the United States Attorney for the Eastern District of North Carolina, files this Notice of Removal of the above-captioned action pursuant to 28 U.S.C. §§ 1442(a)(1) and 1446, and hereby states as follows:

1. On August 23, 2023, Plaintiff initiated a civil action in the Superior Court Division of Wake County, State of North Carolina, No. 23 CV 022066-910, naming ATF Agency, a federal agency, as a party defendant. *See* Exhibit 1.
2. The U.S. Attorney’s Office received a copy of the civil action on September 13, 2023.
3. The gravamen of Plaintiff’s civil action arises from the execution of a federal search warrant at the Plaintiff’s home on May 23, 2023, in connection with a federal investigation. *See* Exhibit 1.

4. Plaintiff's state-court civil action appears to seek compensation and other relief from alleged "trespass, theft, and deprivation of unalienable rights. See Exhibit 1.

5. Removal of this action to federal district court is made pursuant to 28 U.S.C. § 1442(a)(1) because it is a civil action commenced in a state court against a federal agency acting within the scope of its federal employment at all material times. See Exhibit 2.

6. The right of removal under § 1442(a)(1) "is to be broadly construed." *Kolibash v. Comm. on Legal Ethics of W. Va. Bar*, 872 F.2d 571, 576 (4th Cir. 1989) (citing *North Carolina v. Carr*, 386 F.2d 129 (4th Cir. 1967)). This statute "allows for removal when its elements are met 'regardless of whether the suit could originally have been brought in a federal court.'" *City of Cookeville, Tenn. v. Upper Cumberland Elec. Membership Corp.*, 484 F.3d 380, 389 n.5 (6th Cir. 2007) (quoting *Willingham v. Morgan*, 395 U.S. 402, 406 (1969)); see also *Mesa v. California*, 489 U.S. 121, 129 (1989); *Hendy v. Bello*, 555 F. App'x 224, 225–26 (4th Cir. 2014); *Figueroa v. Baca*, 2018 WL 2041383 (C.D. Cal. April. 30, 2018); *Perkins v. Dennis*, No. TDC–16–2865, 2017 WL 1194180, at \*2 (D. Md. Mar. 30, 2017). Federal Defendant has colorable federal defenses to this matter, including sovereign immunity.

7. Accordingly, Federal Defendant gives notice that this matter hereby is removed from state court to the United States District Court for the Eastern

District of North Carolina and the division embracing Wake County, North Carolina, pursuant to 28 U.S.C. §§ 1442(a)(1), 1446, and 113(a).

8. A copy of this notice will be filed with the Wake County Superior Court and sent to Plaintiff as provided in 28 U.S.C § 1446(d).

WHEREFORE, Federal Defendant shows that the action now pending in the District Court for Wake County, North Carolina, is removed to this Court.

Respectfully submitted, this 27th day of September, 2023.

MICHAEL F. EASLEY, JR.  
United States Attorney

By: /s/ Michael Bredenberg  
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*Counsel for Federal Defendant*

CERTIFICATE OF SERVICE

I do hereby certify that I have this 27th day of September, 2023, served a copy of the foregoing Notice upon the below-listed party by placing a copy of the same in the U.S. Mail, addressed as follows:

Wilbert E. Riggin  
612 Misty Moor Place  
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By: /s/ Michael Bredenberg  
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